UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,885	03/18/2004	Hubert Bellm	03869-105002	8199

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EXAMINER
KASENGE, CHARLES R

ART UNIT	PAPER NUMBER
2121	

NOTIFICATION DATE	DELIVERY MODE
05/22/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
	10/804,885	BELLM ET AL.
Office Action Summary	Examiner	Art Unit	
	CHARLES R. KASENGE	2121	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *11 February 2009*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *11,13-23,25,27-31,33,34 and 36-39* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *11-13-23,25,27-31,33,34 and 36-39* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *18 March 2004* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☒ All　b) ☐ Some * c) ☐ None of:

　　　1. ☒ Certified copies of the priority documents have been received.

　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 2/11/09 have been fully considered but they are not

persuasive. The Applicant contends that Miyoshi et al. U.S. Patent 5,900,259 and Brown et al.

U.S. Patent 5,209,889 fail to teach or suggest "receiving at the computer at least one input from

an operator and sending the received at least one input to the control process virtually in parallel

with the execution of the monitoring process" as recited in claim 11 and similarly recited in

claims 18, 25, 31 and 38. The Applicant argues that Brown does fails to cure the deficiencies of

Miyoshi. Regarding claims 14, 15 and 22, the Applicant argues that Brown does not teach the

"input" being executed in non real time. The Examiner respectfully disagrees with these

arguments.

        First, the Applicant argues that Brown's teaching for turning off the machine at any stage

would render Miyoshi inoperable for its purpose. The Applicant asserts that when an operator

shuts off an injection molding machine, the process does not occur "in parallel" because the

injection molding stops. However, Claim 11 states, "receiving at the computer at least one input

from an operator and **sending** the received at least one input to the control process virtually **in**

parallel with the execution of the monitoring process" The Examiner contends that since the

claim states "sending the input in parallel" and not "execution of the input in parallel", the

Applicant's argument is moot. Furthermore, the Examiner notes that Miyoshi implicitly discloses

receiving input from an operator in parallel with the monitoring process (col. 5, lines 5-25).

        Second, the Applicant argues that Brown's turn off machine command is in real time and

can not be considered non real time. However, Claim 14 states, "receiving and sending the at

least one input is executed by the **computer** under an **operating system** comprising **non-real-time capabilities**." The Examiner contends that the claim requires the operating system to have non-real-time capabilities, but does not require the input to be sent or received in non real-time. The Examiner asserts that every typical operating system for a computer has non-real-time capabilities. Just one of many possible examples of this is a shut down command wherein there is a delay before the computer turns off. For at least these reasons, the rejection of the claims is maintained.

Claim Rejections - 35 USC § 103

2.　　　The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.　　　Claims 11, 13, 16-21, 23, 25, 27-31, 33, 34 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyoshi et al. U.S. Patent 5,900,259 in view of Brown et al. U.S. Patent 5,209,889.

4.　　　Regarding claims 11, 25, 29-31, 34 and 36-39, Miyoshi discloses a method for monitoring a control process executed by a control unit for an injection-molding process, the method comprising the steps of: (a) acquiring, using at least one sensor (Fig. 2-5, S1-S3), actual values of at least one process variable of the injection-molding process, the actual values of the at least one process variable comprising at least one selected from the group consisting of temperature, pressure, feed rate, and rotational speed (col. 11, lines 39-43); and (b) transmitting

the acquired actual values of the at least one process variable to the control process and transmitting the acquired values from the control process to a monitoring process executed by a computer (col. 4, lines 33-38) for monitoring the control process (col. 11, lines 39-43); (c) evaluating the transmitted actual values (col. 11, lines 39-54), (d) determining based on the evaluated actual values, at least one setpoint value comprising at least one selected from the group consisting of temperature variations, pressure variations, feed rate variations, and rotational speed variations (col. 11, lines 55-58; col. 13, lines 55-60), and (e) transmitting the at least one setpoint value to the control wherein monitoring the control (col. 9, lines 30-39), evaluating the transmitted actual values and determining the at least one setpoint value are performed by the computer (col. 4, lines 33-38; col. 15, lines 20-31).

Regarding claims 11, 18, 25, 31 and 38, Miyoshi does not explicitly discloses a step of receiving at the computer at least one input from an operator and sending the received at least one input to the control process virtually in parallel with the execution of the monitoring process.

Brown discloses a step of receiving at a computer at least one input from an operator and sending the received at least one input to a control process virtually in parallel with any stage of the injection molding process (col. 8 and 9, lines 64-12).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to allow the operator to provide input(s), such as turning off the machine, virtually in parallel with a monitoring process. One of ordinary skill in the art would have been motivated to do this since Brown discloses sending the input at any stage of the injection molding process.

Therefore, it would have been obvious to modify Miyoshi and Brown to obtain the invention as specified in claim 11, 18, 25, 31 and 38.

Regarding claims 13, 27, and 33, Miyoshi discloses the method according to claim 10, further comprising the step of receiving at the computer at least one output from the control and sending the received at least one output to an operator (section D) virtually in parallel with the execution of the monitoring of an injection-molding process (col. 12, lines 45-48).

Regarding claims 16, 19, 23 and 28, Miyoshi discloses the method according to claim 10, wherein the control comprises a software process, the software process executed by the computer under an operating system comprising real-time capability, the software process executing virtually in parallel with transmitting the actual values acquired by the control to the computer for monitoring (col. 11, lines 39-59).

Regarding claim 17, Miyoshi discloses the method according to claim 10, wherein the monitoring is carried out using a computer program, the computer program executed on the computer (col. 13, lines 4-8).

Regarding claim 20, Miyoshi discloses the system according to claim 18, wherein the computer is configured for receiving at least one operator input and for passing the at least one operator input to the control unit (Fig. 2-5).

Regarding claim 21, Miyoshi discloses the system according to claim 18, wherein the computer comprises a first computer program for monitoring the received actual values associated with the injection-molding process and a second computer program for sending at least one output received from the control unit to the operator, and wherein the second computer program sends at least one input received from the operator to the control unit (Fig. 2-5).

5.   Claims 14, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Miyoshi and Brown as applied to the claims above. Miyoshi or Brown do not explicitly disclose

receiving and sending input or output is executed by the computer under an operating system

comprising non-real-time capabilities.

Official notice is taken that non real-time systems are well known at the time the

invention was made in the analogous art of data processing.

At the time the invention was made, it would have been obvious to a person of ordinary

skill in the art to have the operator distribute the input/output data not in real time. One of

ordinary skill in the art would have been motivated to do this in order to give the operator time to

review the data before it influences the control process. Also, typical operating systems for

computers inherently have non-real time capabilities. An example of this is a shutdown

command. The execution of the shutdown does not happen in real time; there is a delay before

the computer shuts down.

Therefore, it would have been obvious to modify Miyoshi and Brown to obtain the

invention as specified in claims 14, 15 and 22.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to CHARLES R. KASENGE whose telephone number is (571)272-

3743. The examiner can normally be reached on Monday through Friday, 8:30 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Albert DeCady can be reached on 571 272-3819. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CK
May 20, 2009

/Charles R Kasenge/
Examiner, Art Unit 2121